

JS 44 (Rev. 07/16)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

DEMATIC CORP.

(b) County of Residence of First Listed Plaintiff Kent County, MI
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, Email and Telephone Number)

Mark A. Schiavo, Esquire

Dilworth Paxson LLP / 457 Haddonfield Road, Suite 700 / Cherry Hill,
New Jersey 08002 / (856) 675-1900

DEFENDANTS

AMBOY GROUP, LLC

County of Residence of First Listed Defendant Middlesex County, NJ
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input checked="" type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. 1332

Brief description of cause:

Breach of contract

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10/19/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

DEMATIC CORP.,

Plaintiff,

v.

AMBOY GROUP LLC,

Defendant.

CIVIL ACTION NO.

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff, Dematic Corp. (“**DEMATIC**”), through its undersigned counsel, Dilworth Paxson LLP, by way of Complaint against Defendant, Amboy Group LLC (“**AMBOY**” or “**DEFENDANT**”), seeks the legal and equitable relief requested below based upon certain contracts, promises, and actions of Amboy, and in support thereof, alleges as follows:

PARTIES

1. Plaintiff, DEMATIC, is a Delaware corporation with its principal place of business located at 507 Plymouth Avenue NE, Grand Rapids, Michigan 49505.

2. Defendant, AMBOY, is a New Jersey limited liability company with its principal place of business at One Amboy Avenue, Woodbridge, New Jersey 07095.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 1332 in that the claims asserted herein are between citizens of different states and the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred in this District.

FACTS

5. Dematic is a global engineering company that provides a comprehensive range of intelligent warehouse logistics and materials handling solutions. Dematic designs, builds, and life cycle supports logistics solutions that optimize material and information workflow -- from receiving to shipping, within the four walls of the factory, warehouse, or distribution center.

6. Some time prior to December of 2013, Amboy acquired a facility in Woodbridge, New Jersey, with a single aisle Woodson Unit Load Automated Storage and Retrieval System. Thereafter, Amboy solicited proposals, including from Dematic, for a modernization project for its newly acquired warehouse facility.

7. On or about December 19, 2013, Dematic entered into a Sales Agreement with Amboy (the “**Agreement**”) through which Dematic agreed to sell and Amboy agreed to purchase from Dematic certain products and services related to the Woodson Automated Storage and Retrieval System Project (the “**Project**”). A true and correct copy of the Agreement is attached hereto as Exhibit “A.”

8. Specifically, under the Agreement, Dematic agreed to provide and Amboy agreed to purchase certain “critical” upgrades to the existing infrastructure at the Woodbridge facility. These upgrades included, *inter alia*, a full storage and retrieval machine controls upgrade utilizing existing mechanical subsystems; the provision of minimal on-ground controls for fork truck and storage and retrieval machine interfaces; and delivery of a minimal featured equipment management systems to support system automation. Dematic further provided a new manager system, conveyor controls, and storage and retrieval machine controls upgrades, amongst other products and services.

9. Dematic provided all services and products to Amboy in a timely and satisfactory manner, as required under the Agreement.

10. Testing of the equipment and services provided by Dematic to Amboy, and acceptance of the work performed by Dematic, was performed on several levels. First, the Storage and Retrieval Machine (“**SRM**”) upgrade work that Dematic performed was completed and the upgraded SRM was tested and accepted by Amboy. A true and correct copy of the Amboy SRM acceptance is attached hereto as Exhibit “B”.

11. Second, a system-wide test was performed for the entire integrated system installed by Dematic, which was once again accepted by Amboy. A true and correct copy of the Amboy system-wide acceptance is attached hereto as Exhibit “C”.

12. Under the Agreement, in exchange for the services and products provided by Dematic, Amboy was required to pay Dematic \$134,309.69 (\$143,711.36 including tax) on July 31, 2014 and \$132,446.67 (\$141,717.94 including tax) on August 30, 2014.

13. Amboy failed to pay either invoice and, as a result, owes Dematic \$285,429.30, exclusive of interests, attorney’s fees and costs of suit (the “**Indebtedness**”). True and correct copies of the invoices are attached hereto as Exhibit “D”.

14. On or about April 6, 2015, Dematic sent Amboy a request for payment and proposal for negotiated payment terms. A true and correct copy of the April 6 email from Dematic to Amboy attached hereto as Exhibit “E”.

15. On or about April 6, 2015, Amboy acknowledged that it owed the Indebtedness and proposed to pay Dematic \$32,475.00 per month for thirty eight (38) consecutive weeks in satisfaction of the Indebtedness. The same day, Dematic accepted Amboy’s proposal. See Exhibit “E”.

16. On or about July 13, 2015, Dematic sent Amboy a letter demanding that Amboy pay the Indebtedness in full on or before July 24, 2015. Amboy failed to do so.

17. On or about December 16, 2015, Dematic sent Amboy a second demand for payment of the Indebtedness, together with notice of default under Section 7.1 of the Agreement. A true and correct copy of the December 16, 2015 letter is attached hereto as Exhibit "F".

18. Notwithstanding such demands, no payment was received by Dematic.

COUNT I
BREACH OF CONTRACT

19. Dematic hereby incorporates by reference Paragraphs 1 through 17 above as though fully set forth herein.

20. The Agreement constitutes a contract between Dematic and Amboy.

21. Amboy breached the contract by, among other things, failing to pay the sums due and owing to Dematic as required by the Agreement;

22. Dematic satisfied its obligations under the Agreement and has acted in good faith in exercising its rights pursuant to the Agreement.

23. Dematic has been damaged by Amboy's breach of contract.

WHEREFORE, Plaintiff, Dematic, respectfully requests that this Court enter judgment against Defendant, Amboy, for all damages incurred by Dematic plus costs and attorney's fees, and any further relief as this Court deems just and proper.

COUNT II
BOOK ACCOUNT

24. Dematic hereby incorporates by reference Paragraphs 1 through 22 above as if fully set forth herein.

25. Amboy owes Dematic \$285,429.30 on an open book account.

26. Dematic has demanded payment of the amount owed by Amboy, but Amboy has not paid this amount, or any part of it, and the whole amount is due and payable from Amboy to Dematic.

WHEREFORE, Plaintiff, Dematic, demands judgment against the Amboy for all sums due and owing pursuant to the agreement, together with interest, service charges, charge back fees, costs of suit, and attorneys' fees.

COUNT III
UNJUST ENRICHMENT

27. Dematic hereby incorporates by reference paragraphs 1 through 25 above as if fully set forth herein.

28. As a result of Dematic providing services, delivering the equipment and other merchandise to Amboy under the Agreement, Amboy received the benefit of the equipment and services.

29. By failing to pay Dematic for the equipment and services, Amboy has been unjustly enriched to the detriment and expense of Dematic.

WHEREFORE, Plaintiff, Dematic, demands judgment against the Amboy for all sums due and owing pursuant to the agreement, together with interest, service charges, charge back fees, costs of suit, and attorneys' fees.

JURY DEMAND

Plaintiff demands a jury trial on any issue triable of right by a jury.

Dated: October 19, 2016

Respectfully submitted,

By: /s/ Mark A. Schiavo

Mark A. Schiavo, Esquire

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LibertyView

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Attorneys for Plaintiff Dematic Corp.